

1 LAW OFFICE  
2 **THOMAS McKEE TARPLEY**  
3 **A Professional Corporation**  
4 Bank of Hawaii Building  
5 134 West Soledad Avenue, Suite 402  
6 Hagatna, Guam 96910  
7 Telephone: (671) 472-1539  
8 Facsimile: (671) 472-4526  
9 Electronic mail: tarpley@guam.net

6 **FORREST BOOTH** (Cal. Bar No. 74166) (Admitted *pro hac vice*)  
7 **RYAN C. DONLON** (Cal. Bar No. 229292) (Admitted *pro hac vice*)  
8 **SEVERSON & WERSON**  
9 A Professional Corporation  
10 One Embarcadero Center, Suite 2600  
11 San Francisco, CA 94111  
12 Telephone: (415) 398-3344  
13 Facsimile: (415) 956-0439  
14 Electronic mail: fb@severson.com  
15 Electronic mail: rcd@severson.com

11 Attorneys for Defendant, Cross-Claimant and  
12 Counterclaimant S.J. GARGRAVE SYNDICATE 2724

13 **IN THE DISTRICT COURT OF GUAM**  
14 **TERRITORY OF GUAM**

15 UNITED STATES OF AMERICA,  
16 Plaintiff,  
17 and  
18 INCHCAPE SHIPPING SERVICES GUAM,  
19 LLC,  
20 Plaintiff in Intervention,  
21 vs.  
22 MARWAN SHIPPING & TRADING CO.,  
23 FIVE SEAS SHIPPING CO., LLC, and S.J.  
24 GARGRAVE SYNDICATE 2724,  
25 *in personam*,  
26 Defendants.

26 AND CROSS-CLAIMS, COUNTERCLAIM,  
27 AND CLAIM IN INTERVENTION  
28

**FILED**  
**DISTRICT COURT OF GUAM**

NOV 26 2007 hba

**JEANNE G. QUINATA**  
**Clerk of Court**

Case No.: 1:06-CV-00011


**REPLY BRIEF OF S.J. GARGRAVE  
SYNDICATE 2724 IN SUPPORT OF  
ITS MOTION FOR LEAVE TO FILE  
THIRD-PARTY COMPLAINT**

Complaint Date: April 19, 2006  
Trial Date: May 12, 2008

1 Defendant, Cross-Claimant and Counterclaimant's S. J. GARGRAVE SYNDICATE 2724  
2 (hereinafter "Gargrave") respectfully submits that its motion for leave to implead NAVIGATORS  
3 PROTECTION & INDEMNITY (hereinafter "Navigators") as a third-party defendant in this  
4 maritime action should be granted. Navigators is a proper party to this action because Guam's  
5 Direct Action Statute (22 Guam Code Ann. § 18305) provides for joining tortfeasors' liability  
6 insurers in actions which are filed against the tortfeasors.

7 No opposition has been filed to Gargrave's motion. Furthermore, San Francisco counsel  
8 for Navigators has advised counsel for Gargrave that Navigators does not intend to oppose the  
9 motion. Discovery is still open in this action, and trial is a long way off. This motion is timely in  
10 that Federal Rule of Civil Procedure 14(a) states that, with leave of court, a defendant may file a  
11 third-party complaint "[a]t any time after commencement of the action ...." Therefore, under  
12 Fed.R.Civ.Pro. 14(a) and (c), Gargrave requests that the Court grant Gargrave leave to file the  
13 third-party complaint which is attached as Exhibit A to its motion.

14  
15 Dated this 26<sup>th</sup> day of November, 2007.

16  
17  
18   
19 THOMAS McKEE TARPLEY  
20 Attorney for Defendant, Cross-Claimant  
21 and Counterclaimant S. J. GARGRAVE  
22 SYNDICATE 2724  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I, Dorothea Quichocho, hereby certify pursuant to Rule 5(d) Fed. R. Civ. P. that on November 26, 2007, I caused to be served a true and correct copy of the **REPLY BRIEF OF S.J. GARGRAVE SYNDICATE 2724 IN SUPPORT OF ITS MOTION FOR LEAVE TO FILE THIRD-PARTY COMPLAINT** to the following:

Mike W. Schwab, Esq.  
OFFICE OF THE U.S. ATTORNEY  
108 Hernan Cortez Avenue, Suite 500  
Hagatna, Guam 96910

R. Michael Underhill  
Attorney in Charge, West Coast Office  
MIMI MOON  
Trial Attorney  
Torts Branch, Civil Division  
U.S. DEPARTMENT OF JUSTICE  
450 Golden Gate Avenue, Room 7-5395  
P.O. Box 36028  
San Francisco, CA 94102-3463  
[Courtesy copy]

*Attorneys for Plaintiff and Counterdefendant United States of America*

Lawrence J. Teker, Esq.  
TEKER TORRES & TEKER, P.C.  
Suite 2-A, 130 Aspinall Avenue  
Hagatna 96910-5018, Guam

John E.D. Powell, Esq.  
CAIRNCROSS & HEMPELMANN, P.S.  
524 Second Avenue, Suite 500  
Seattle, WA 98104-2323  
[Courtesy copy]

*Attorneys for Defendants and Cross-Defendants Marwan Shipping & Trading Co.;  
Five Seas Shipping Co., LLC; and Al-Buhaira National Insurance Company*

Thomas C. Sterling, Esq.  
BLAIR STERLING JOHNSON MARTINEZ &  
LEON GUERRERO, P.C.  
Suite 1008, DNA Building  
238 Archbishop F.C. Flores Street  
Hagatna, Guam 96910-5205

Stanley L. Gibson, Esq.  
GIBSON ROBB & LINDH LLP  
100 First Street, 27th Floor  
San Francisco, CA 94105  
[Courtesy copy]

*Attorneys for Defendant Navigators Insurance Co., dba  
Navigators Protection & Indemnity*

David P. Ledger, Esq.  
Elyze J. McDonald, Esq.  
CARLSMITH BALL LLP  
Bank of Hawaii Building, Suite 401  
134 West Soledad Avenue  
Hagatna, Guam 96910

*Attorneys for Third Party Defendant Inchcape Shipping Services Guam LLC*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated this 26 day of November, 2007.

  
DOROTHEA QUICHOCHO